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A SHIFT IN THE PARADIGM OF NATIONAL SOVEREIGNTY WITH THE ADVENT OF GLOBALIZATION

Aneesh Singh[1]

I. ABSTRACT

The concept of sovereignty has been prominent for ages. Yet, the advent of globalization has brought a significant turn of modernization to this concept. As globalization has stepped foot in today's world, sovereign policy has been affected by international ideas with various challenges and opportunities. The shift from one nation strategies to multi-national policies has brought a diverse change in the concept of sovereignty. This paper analyses the same, as with the increasing interconnection, trade liberalization, immigration access, flow of capital and technological advancement the traditional functioning of sovereignty faces significant challenges. Subsequently, it is noticed that with the challenges posed by globalization the nations find them constrained by international agreements, standards and regulations which limit their ability to pursue autonomous policies.

The research paper also dives deep into the dynamic immigration policies as a part of globalization and understand how sovereign states have incorporated non-rigid international policies which have let the migration into free flow to accommodate the international economic standards. Furthermore, we understand how nations have to increasingly "manage" national politics in such a way as to adapt them to the pressures of trans-national border movements. Also, we analyze the impact of international organizations like WTO and its agreements on socio-cultural and economic protocols.

In conclusion, this research paper contends that globalization has a multifaceted impact and requires a structural analysis when it comes to dealing with national sovereignty. It is viewed that globalization's major impact has been altering the scope of state authority, and the same is analyzed

[1] LL.M. (Corporate and Financial Law & Policy) Jindal Global Law School, Sonipat, Haryana

in this paper from the economic and social point of view. We also add that such alteration is done with free will and is for the benefit of the sovereign state and the state can refrain from this global involvement if it wishes to do so.

II. KEYWORDS

Globalization, Sovereignty, International, Policies, Challenges, Economic

III. INTRODUCTION:

The concept of sovereignty has been embedded in the roots of political systems as a source of strength and liberty. The same has been very important to any country that has adopted the same. Hence, we understand the roots of the concept to be a predominantly old one. On the other hand, we see that the advent of globalization has been an essential part of today's growing society. With time, society has evolved and so has globalization. Be it through its worldwide protocols or policies, globalization has surely made a hold on the current growth of our living. The international law has been a part of the evolving globalization. When we talk about globalization, international law has a hand in hand part to play. So, it won't be wrong to say that the way globalization affects sovereignty, so does the evolution of international law. The concept of sovereignty is still attractive to weaker States, whose leaders have a limited and lose control over the trans-national border moments and even within their own country. The same is not the concept with the powerful developed counties or developing counties who are aiming to match higher standards. Such counties aim to achieve more sense of connectivity to evolve and hold more power in the international regime and also take benefits of such inter linkage as to evolve their economy. To this, we observe the national sovereignty has had a definite shift in its paradigm with the evolution of international law.[2] Be it economic, social, and cultural or in a political setup, the shape of sovereignty has changed. We study all the aspects hereinafter. To point it out specifically, the question is on traditional Westphalian sovereignty concept for being outmoded and discredited. The answer to this question

[2] Phillip R. Trimble, *Globalization, International Institutions, and the Erosion of National Sovereignty and Democracy*, 95 LMR (1997).

unfolds with time and change. With this we study the reasons as of how increasing interconnection, trade liberalization, immigration access, flow of capital and technological advancement, the traditional functioning of sovereignty faces significant challenges. The research extensively covers the impact of international institutions throughout the paper as the same is a basic concept affecting the sovereignty of any country.

A. How has the increasing interconnection, flow of capital, trade liberalization, technological advancement and immigration access affected the traditional functioning of sovereignty with significant challenges?

The concept of Sovereignty has its core in the "nation-state" 1648 treaty of Westphilia. It is to be considered that a volume of twenty-five essays regarding sovereignty, by a number of authors was published in 2002, which had a variety of viewpoints on sovereignty, with some critical analysis. It included the viewpoint of an eminent senior scholar and Professor *Henry Schermers*, who states that sovereignty has different aspects, yet none of them is a stable one. This shows that the concept of sovereignty is continuous and changing especially in the recent years.[3] The traditional concept and functioning of sovereignty has faced rapid change due to the incoming dynamics of Globalization as the same has bought up the concepts such as, interconnection, immigration access, trade liberalization, technological advancement, and flow of capital.

With time the countries have become more culturally, socially, and economically intertwined and the ability of an individual nation to control its affairs has faded. Sovereignty, which means the exclusive authority of state over its territory, is challenged by the facts that many issues have transcended the national borders.[4] When it comes to trade liberalization, trade agreements like NAFTA (North America Free Trade Agreement) and WTO (World Trade Organization) have led to a greater horizon of

[3] John H. Jackson, *Sovereignty-Modern: A New Approach to an Outdated Concept*, 97 A M. J. INT'L L. 782 (2003).
[4] Leonid E. Grinin, *State Sovereignty in the Age of Globalization: Will it Survive?*, SS. https://www.sociostudies.org/almanac/articles/state_sovereignty_in_the_age_of_globalization-_will_it_survive/

economic integration. This surely has brought some economic benefits, but this also means that the countries also need to give some regulatory control to the international bodies, which has affected the State's sovereign decision making. Immigration and migration have been an important part of any county's functioning for a long time. Yet, when it comes to the sovereign nature of the state the same is conflicting with the universal policy making on immigration status of the immigrants, migrants, or the refugees.

Policy makers have to abide by the international treaties which can impact a state's control on its border regulation. The global financial markets and the ease of capital movement have made it difficult for individual states to maintain their economy independently. For making the flow of capital comparatively smoother globally, individualistic ideologies are to be kept aside and the same has been a challenge to the sovereign states. Financial crisis like the Global Financial Crisis of 2008 represented the global interconnectedness of the world's economy and how the fall of one effect the other financial institutions hence, when interconnectivity is assured in the financial institution, a solid regulatory connection is also to be built for its sustainability. With the coming technology, the digital age has given a rise to flow of information and data across the borders which is often beyond the control of any single government.

Prominently seen common day issues like cyber security, data privacy and intellectual property right issues are challenge to the traditional sovereignty. With the rise of international organizations and the agreements made by them, the member states tend to agree and apply common rules and norms, sometimes by giving away a degree of individual sovereignty for the benefit of cooperation. Globalization comes with some global challenges itself, challenges like pandemics, climate change and terrorism require coordinated international responses, which often necessitates cooperation and collective decisions, which bars the unilateral exercise of sovereignty. Such factors which are a source of embedding globalization into today's world are basically a challenge to sovereignty.

B. The limitations faced by the nations on their ability to pursue autonomous policies

Governments and likeminded activists who charge a notion against globalization, complains that multilateral international institutions such as United Nations, IMF, WTO etc. have overseen their authority by setting up global standards for everything which has hampered the autonomous nature of the sovereign state. Hence, for a wider perspective it is to be measured how much of state authority is compromised in the said process. On analyzing this we begin to comprehend that the internationalization of the political structure has led to political globalization. It is noticed that, since the early 19th century, the European interstate system has been developing a consensus-based normative order and a set of international political orders that regulate all sorts of interactions. This phenomenon of Global Governance is in reference to the growth of both, general and specialized international order.[5]

The general IO's like United Nations and specialized/regional IO's like African Union or European Union have a dominant regulatory impact as the treaties made by them are said to be customary laws and the same are to be abided equally by the signatory counties. This is the trend of political globalization. The impact of this is already visible in the area of human rights law. The laws that are internationalized are to be applied accordingly and the State loses its power to treat the nationals and immigrants in the way it wants to. The same has a positive outcome as it reduces the atrocities happening to people who are aliens to a country merely because of the refugee or migrant status on them. The regulation of same is discussed in length when we deal with the immigration policies and the effects on sovereignty.

There are certain examples where states have had to change domestic policies to comply with international agreements. One example is the United States' implementation of environmental policies to comply with international agreements such as the Paris Agreement. To satisfy its commitments under the accord, the U.S. required enacting and

[5] Ku, Julian, Yoo, John, *Globalization and Sovereignty,* 31 BJIL 1 (2013).

enforcing domestic laws aimed at decreasing greenhouse gas emissions, promoting renewable energy sources, and transitioning to cleaner technology.[6] This has led to the adoption of numerous federal and state-level rules and programs, such as fuel efficiency standards for vehicles, carbon pricing mechanisms, and renewable energy mandates.

The General Data Protection Regulation (GDPR), which is one of the EU's data protection laws, is another example. The GDPR lays out guidelines for the processing and security of personal data with the goal of giving people more control over their personal information and harmonizing data protection regulations among EU member states. Member states were required to revise their domestic data privacy legislation and set up independent supervisory authorities in order to enforce the GDPR. This has affected data privacy regulations in other nations outside the EU and led to substantial changes in how companies and organizations gather, store, and use personal data within the EU.[7]

The inter-relation between markets, finances, goods and services and networks has created by trans-national corporations which are the key components of a global economics. The economics has been global for ages, though the current scenario of market trends has increased the course of it rapidly. The digital modes of trade flow, credit transformation and policy making have let much more mercy of market forces now than before. All this global economic free flow comes with challenges to sovereignty as the universal norms do affect the previously prescribed trade system. The concerning part to this is the rapid inter-linkage can lead to domino effect on ongoing economic market; hence effect of one failure can ripple and affect others. Such negative externalities are to be dealt with concisely for a positive regulation as mentioned above.

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[6] Cash, David, *The Paris Agreement: The First Local Global Environmental Pact*, (2016) The Epoch Times https://www.theepochtimes.com/article/the-paris-agreement-the-first-local-global-environmental-pact-1940339?utm_medium=GoogleAds&utm_source=PerfmaxM&utm_campaign=PM_maxV_DollarTree_20240325&gad_source=1&gclid=Cj0KCQjw0MexBhD3ARIsAEI3WHKArGazTuU8BupwIi0UHmS2iYhEbR9FqyEw9kA7FUxiLQhNVjMJWc8aAs3AEALw_wcB

[7] Wolford, Ben, *What is GDPR, the EU's new data protection law?,* GDPR.EU, https://gdpr.eu/what-is-gdpr/

The impact of globalization has made its way to the cultural aspect equally as it has made in any other sector. Culture is seen to be something that focuses on diversification and globalization of culture has bought the same effect. With the said outlook, culture is said to adapt, share, and learn the ways of different societies. Globalization is the link to do so. Cultural globalization relates to the fusion of two values, i.e., the rapid increase of individualized values and the adoption of originally Western institutional practices. It shows globalization and culture go hand in hand but the same are a bar to state sovereignty as it breaks the pre-set boundaries. With the acceptance to the right to development of the people it is agreed upon to the willingness to the need for interaction, co-operation, and dependence.[8]

This right to development is to be seen as a composite right which helps in the proper growth of today's society as a wholesome unit hence, again promoting the ideology of globalization. A restrictive approach of sovereign state won't be enough for a society's cultural development. We understand that globalization as a phenomenon helps to expand opportunities and services which are difficult to do by an individual government. Hence a wholesome investment is necessary when we talk about how the world is evolving and globalization is an essential element to the same.

Sovereignty traditionally meant to be a final authority, which of course changed with time to be a notion of autonomous independence of states from one another. As a new strength of sovereignty, the idea of independent decisions also means the decisions taken to enter into any international transaction. The same directly relates to the concept of globalization. Globalization is not a forced process, and no government has till date lost its State merely because of globalization. As it is correctly stated that any treaty amongst states is legitimate, until it's made with corrosion, misrepresentation, or any forceful ideology. A treaty is a binding document to those who are signatories, yet the expansion of international law has moved far enough to tell that treaties could be binding to those who are not the members or signatories, i.e. expanding the horizon of international law

[8] AE Oji, MVC Ozioko, *Effect of Globalization on Sovereignty of States*, 16 JSTOR 4, pp. 60–77 (2012).

to a much wider ambit. Thus, international organizations have made a deep impact on the state sovereignty. The same is appreciated when it comes to mutually beneficial decision making.

C. Dynamic immigration policies of globalization which sovereign states have incorporated that has let the migration into free flow to accommodate the international economic standards:

When we dive deep into the concept of sovereignty, the major effect has been on immigration policies and the cross-border movement. When sovereignty is in power it tends to keep its people to itself and limit the cross-border interactions to a minimum, so that new regulations are not in the list to be formed regulated. This part of sovereignty is mostly seen in the populist governments, who are totally against the international regulations and completely disregard its existence. The same can be seen in the 2016, US election party which has Donald Trump as the candidate who openly used populist ideas to gain people's attention. Globalization and international law have made it easy to make regulatory compliances for such immigration, refugee and migration workforce. When we talk about the immigration policies, globalization has regulated the same with its affective trade-relations and making a need of cross border connections.[9]

Taking in consideration the economic requirements and Labor Market needs the aspects of skill-based immigration and temporary and seasonal workers is considered and the same is promoted via the concept of expansion of international law.[10] When we talk about entrepreneurship and the investor-oriented immigration, we note that states usually promote investor visa programs that bring integration with foreign investors which induces market to the country. On the other hand, some countries have started to bring up startup visa programs that help include the entry of entrepreneurs with new and innovative business ideas. With this, free trade agreements, which include facilities for

[9] Segers, Grace, *Trump's rhetoric in midterm rallies reminiscent of 2016 campaign*, CBS News, (October 24, 2018) https://www.cbsnews.com/news/trumps-rhetoric-in-midterm-rallies-reminiscent-of-2016-campaign/
[10] Xu, Qingwen, *Globalization, Immigration and the Welfare State: A Cross-National Comparison,* 34 JSSW 2, (2007).

the movement of skilled and technically professional workers across the border, facilitate labor mobility and economic integration. Countries these days incorporate humanitarian conceptualization while making their immigration policies which help in providing asylum to refugees.

Also, government collaboration with the private sectors, commerce chambers and industries in relation to designing immigration policies has considerably looked into particular economic requirements. One of such examples is of is Canada who introduced the Startup Visa Program in 2013 in an effort to draw creative entrepreneurs from all around the world. Through this scheme, foreign entrepreneurs can apply for permanent residency if they are supported by a recognized Canadian venture capital fund, angel investor group, or business incubator. These policies ensure the international obligations promote the concept of immigration whereas the same was limited complete in the sovereign setup, somehow constraining the growth of the county's economy and market investment.

D. Impact of the International Institutions and its treaties on the State Sovereignty:

Talking about the impact of international institutions in particular, we see that formation of such international institutions has bought a major change in the political, social, economic and cultural aspect of Nation-state. The same is hinted throughout this paper as its analysis and somehow always uses the example of international institutions as a part of explaining the effect of globalization on the state sovereignty. As we understand the involvement of international institutions, we see the development of the same with time and space and its general and overlapping implications throughout. Such features are analyzed to examine the current impact of international institutions on state sovereignty. It is noticed that they have been entering into every zone of international relations, be it economic, social or cultural, imposing a set of limitations on state sovereignty.

The decision-making power has shifted from state intuitions to international institutions to regulate universal norms, such as economic international institutions like IMF and WTO have set up norms for the economic market. The UN has embraced the neo-liberal agenda which has made it to promote transnational capitals and hence increasing the role of private corporate sector. A wide range of Non-Governmental Organizations have started participating in the norm-creation process which has widely been influential on the international institutions and the decision-making process they abide. The same has been questioned and analyzed as the large number of Ngo's bringing the voice of Global Civil Society. With this and more such involvement of international organizations we can see that the intentional institutions are now performing the task of state institutions in the process of capital accumulation.

The Ottawa Treaty, commonly referred to as the Anti-Personnel Mine Ban Convention, is one such instance when NGO advocacy resulted in the implementation of new international standards. The International Campaign to Ban Landmines (ICBL) and other non-governmental organizations (NGOs) waged a protracted advocacy campaign that culminated in the adoption of this treaty in 1997.[11]

When we talk about the impact of international organizations, we see the major impact is of WTO, which has its basic aim on trade transactions, yet the same relates to many other parts of the socio-cultural and economic concept of the nation state. The same has a specific area of focus on agriculture, intellectual property rights and the regulation of world states and people. Thus, for example, be it Nepal, USA or Rwanda, every country will follow the same IPR laws as they are signatory to the TRIIPS agreement.[12] Hence there is an absence of local linkage, which basically pertains to a rise to "Ersataz capitalism". When we talk about social international institutions, the same has impacted

[11] United Nations Office of Disarmament Affairs, *Anti-Personnel Landmines Convention*, https://disarmament.unoda.org/anti-personnel-landmines-convention/

[12] B. S. Chimni, *International Institutions Today: An Imperial Global State in the Making*, 15 EJIL 1, pp 1-37 (2004).

a large amount of third world countries and has limited state autonomy to a level where the adoption of socially diverse policies is promoted in the society.

IV. CONCLUSION:

In conclusion we see that sovereignty is an old concept which evolved as way of giving nations a sense of security and independence with the change of society and making the nation state concept as a prominent way of division of powers to the said state. With time, globalization came and the advent of same got the concept of policy formation that brings out effective inter-linkage and ease up by facilitating the states. Also, we come to know that globalization has kick started the evolution of international law which again widens the scope of interdependence. We also understand that globalization has bought challenges and opportunities to the state sovereignty as the same has been merely for the positive outcome of the same.[13] The same can be explained as, when we talk about implementing the provisions of globalization or treaties of international institutions, the same is not a compulsion over a sovereign state. It may be seen as it has been forcefully inflicted as the alternatives to the implementation of these treaties are less and moreover not to effective in the current society but the same is just for the positive outlining of the state's standpoint in the current society. The state has free consent to be isolated and not be a part of this process if the same thinks that the policies don't deem fit to the country's current situation, be it economically, socially or culturally. Comprehending the intricate relationship between globalization and sovereignty is essential for effectively managing the complexities of a globalized environment. These factors are always changing, and as they do, our future as a collective is shaped by their effects on economies, cultures, and politics. We are preparing ourselves with the knowledge required for wise decision-making, the creation of policies, and international collaboration by continuing to research and examine this relationship.

[13] Karina Moxon, *Globalisation and State Sovereignty: A Mixed Bag* (2019).

It is an understandable criterion worldwide that a country's autonomy is its own business and only regulatory suggestions can be kept on the table for it, the idea of taking them and being a team player or to fly solo are totally in the hands of the country. As the county chooses to stay this way and tends not to make contribution to the globalizing concepts that bind the states together. Hence, we understand that Globalization is a facilitating process that has developed with time. It might have brought a shift in the rigid policy of state sovereignty but the same is for the global good, development and benefits, be it in any aspect of the society.

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